

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, OCTOBER 3, 2013**

PRESENT: Frank A. de la Fe, Hunter Mill District
Jay P. Donahue, Dranesville District
Earl L. Flanagan, Mount Vernon District
Janet R. Hall, Mason District
James R. Hart, Commissioner At-Large
Janyce N. Hedetniemi, Commissioner At-Large
Ellen J. Hurley, Braddock District
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
James T. Migliaccio, Lee District
Peter F. Murphy, Springfield District

ABSENT: Timothy J. Sargeant, Commissioner At-Large

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The meeting was called to order at 8:21 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Litzenberger announced that the Planning Commission's Joint Housing Committee and the Fairfax County Redevelopment and Housing Authority (FCRHA) met last week on Wednesday, September 25, 2013, where they finalized a plan outlined in the document entitled, "Countywide Policy for Affordable Housing Contributions by Nonresidential Development," and dated September 25, 2013. He asked the Commissioners to review the document and then read a statement for the record wherein he said the Committee's recommendation articulated in this document was in response to direction by the Board of Supervisors after the adoption of a Comprehensive Plan Amendment for Tysons Corner, which included a \$3.00 per square-foot contribution to affordable housing by nonresidential development. He added that the Board directed staff to evaluate a possible change to the Policy Plan to modify the County's Workforce Housing Policy to encourage monetary contributions to affordable and workforce housing from future nonresidential development. In addition, he said that a special subcommittee of the Affordable Housing Advisory Committee, which included members of the Commission, coordinated with the FCRHA and the Community Revitalization and Reinvestment Advisory Group over the course of several months and at this special subcommittee's meeting on Wednesday, September 4, 2013, the proposed policy changes were endorsed. He indicated that these changes were then presented to the Fairfax County Redevelopment and Housing Authority on Thursday, September 19, 2013, before being subsequently endorsed by the Joint Housing Committee. Commissioner Litzenberger then announced that he would request that the Planning Commission endorse transmitting the proposed policy to the Board of Supervisors' Housing Committee and request that the Board of Supervisors allow formal consideration of the concept by authorizing a Comprehensive Plan Amendment at its next meeting on Wednesday, October 9, 2013.

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Commissioner Lawrence announced that the Planning Commission's Policy and Procedures Committee met on Wednesday, October 2, 2013 and endorsed staff's preparation for the evaluation of criteria for Fairfax Forward. He added that staff would post the draft criteria on the Commission's website at <http://www.fairfaxcounty.gov/pcom/> to obtain public feedback. He then indicated that the Committee was coordinating with staff on a new provision to the Work Program regarding parking lots, which would be presented to the Commission for a recommendation after it was finalized.

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Commissioner Hart announced that the Planning Commission would hold a public hearing to consider amendments to the County Code and Public Facilities Manual regarding Stormwater Management on Wednesday, October 9, 2013. He encouraged Commissioners to submit their questions to staff prior to the public hearing so that they could be sufficiently addressed.

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Commissioner Migliaccio stated that an issue had arisen regarding SE 2013-LE-003; therefore he MOVED THAT THE PLANNING COMMISSION FURTHER DEFER THE DECISION ONLY FOR SE 2013-LE-003, DDR SOUTHEAST SPRING MALL, LLC, TO A DATE CERTAIN OF OCTOBER 9, 2013, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioner Hall seconded the motion which carried by a vote of 11-0. Commissioner Sargeant was absent from the meeting.

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FSA-H11-30-1 – NEW CINGULAR WIRELESS, 1850 Centennial Drive

Chairman Murphy MOVED THAT THE PLANNING COMMISSION APPROVE CONSENT AGENDA ITEM, FSA-H11-30-1.

The motion carried by a vote of 11-0. Commissioner Sargeant was absent from the meeting.

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ORDER OF THE AGENDA

Secretary Hall established the following order of the agenda:

1. SE 2013-PR-004 – INOVA HEALTH CARE SERVICES
2. PCA 88-S-026-03 AND SEA 88-S-077-06 – SUNOCO, INC. (R&M)
3. RZ 2009-PR-022 – JAMES HOLLINGSWORTH
4. PCA 86-D-108 – WILLIAM WEISS

This order was accepted without objection.

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SE 2013-PR-004 – INOVA HEALTH CARE SERVICES – Appl.
under Sect. 4-304 of the Zoning Ordinance to permit a medical care facility. Located in the S.E. quadrant of the intersection of Williams Dr. and Arlington Blvd. on approx. 4.87 ac. of land zoned C-3. Tax Map 49-3 ((39)) 3. PROVIDENCE DISTRICT.
PUBLIC HEARING

Timothy Sampson, Applicants Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit dated August 14, 2013.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had an ongoing case where attorneys from Mr. Sampson's firm were representing an adverse party, but that matter and those parties were unrelated to this case and there was no financial relationship; therefore, it would not affect his ability to participate in this public hearing.

William O'Donnell, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application, SE 2013-PR-004.

Mr. Sampson stated that the subject application would permit the construction of a medical care facility on a portion of the site, which was already developed with the INOVA Willow Oaks Hospital campus. He then explained that the existing office development on the site was part of a previously-approved Proffered Condition Amendment (PCA 87-P-038-04) from 2009 in which additional land was acquired from the County. He also noted that a subsequent Proffered Condition Amendment (PCA 87-P-038-05) in 2011 added an additional building to the site, which was currently under construction and located south of the proposed facility. He indicated that the proposed medical care use was consistent with the existing zoning for the subject property and this use was a specific use, subject to the approval of a Special Exception, in the proffers for PCA 87-P-038-05. Mr. Sampson pointed out that the necessary infrastructure associated with the previously-approved PCAs had been installed, including road improvements and a stormwater management facility. He added that additional site modifications were outlined in the Special Exception plat and these modifications were determined to be in conformance with the zoning of the site. Mr. Sampson described the use of the medical facility, stating that it would house INOVA's Comprehensive Cancer and Research Institute and provide a medical home for cancer patients. He added that the facility included a complement of medical services such as diagnostic evaluation and a full course of treatment and care for cancer. He then pointed out that by consolidating these services within a single facility, the parking demands and trip generation for the development would be reduced. Mr. Sampson also indicated that the proposed facility would not incorporate other treatment services from other areas of the County, noting that other hospital facilities would provide these services and the facility was intended to supplement these services. In addition, he stated that incidents of cancer would grow due to demographic shifts and the proposed medical facility would help meet this demand. Mr. Sampson said that the

subject application had been presented to the Health Care Advisory Board (HCAB) and they supported the proposal. He added that the applicant had met with the surrounding community regarding the proposal and no objections were expressed. (A copy of HCAB's letter of support is in the date file.)

Commissioner Hedetniemi expressed support for the proposed medical facility and encouraged that the facility convey a calm and peaceful environment to patients.

When Commissioner Lawrence asked how the facility's parking requirements were determined, Mr. Sampson explained that the applicant had coordinated with consultants that specialized in analyzing the amount of cases that would be handled at the facility for particular groups and the extent of the treatment that certain groups received. From this analysis, the number of parking spaces in use at any given time was calculated while accounting for needs of the facility staff and other parking variables. In addition, he said that these calculations were compared with industry standards and noted that the applicant's calculations were consistent with these standards. Mr. Sampson also pointed out that the facility would provide free valet parking to incoming patients who were handicapped and there would be sufficient parking in the parking garage, which would include handicapped parking and opportunities to supplement that parking if necessary. A discussion ensued between Commissioner Lawrence and Mr. Sampson regarding how the applicant would adjust the parking provisions if they were determined to be insufficient wherein Mr. Sampson said that parking for particular groupings within the garage could be expanded. Commissioner Lawrence then expressed support for the applicant's provision for free valet parking.

Answering questions from Commissioner Hart, Mr. Sampson said that the applicant was requesting a waiver to permit landscaping and sign walls within the sight distance area because the Zoning Ordinance was too restrictive. He then indicated that the applicant sought flexibility to permit landscaping or a sign that would otherwise not be allowed. A discussion ensued between Commissioner Hart and Mr. Sampson regarding the limited area in which the Zoning Ordinance permitted certain landscaping improvements and limited the height of signs wherein Mr. Sampson stated that the waiver would ensure that the final design for the facility would not conflict with the Ordinance. In addition, Mr. O'Donnell said that staff supported the waiver because the applicant had indicated that a monument sign could be located on the southwest corner of the site and if there was an issue with the sight distance, then the sign would have to be moved in the absence of a waiver. He added that the building setbacks were sufficient that sight distance would not be an issue.

A discussion ensued between Commissioner Flanagan and Mr. Sampson regarding the visibility of the proposed medical facility from the intersection at Gallows Road and Route 50 wherein Commissioner Flanagan expressed concern that sight of the parking garage would not be visually appealing from this intersection. Mr. Sampson then addressed these concerns, stating that the proffers from the previously-approved PCAs and Rezoning addressed the lighting in the parking garage. He also noted that the height of the garage was lower than what was depicted in the elevations in the previously-approved applications.

Commissioner Flanagan expressed additional concerns about security at the parking garage because it would be too visible from neighboring office buildings. Mr. Sampson indicated that

this was not a concern because there were no high-security office buildings near the parking garage. A discussion ensued amongst Commissioner Flanagan, Mr. Sampson, and Mr. O'Donnell wherein Mr. Sampson pointed out that the designs of the parking garage had been finalized with the previously-approved PCAs and Mr. O'Donnell indicated that the County facility south of the proposed facility had been implemented according to these PCAs.

Chairman Murphy called for speakers but received no response; therefore, he noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE 2013-PR-004, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 18, 2013.

Commissioner Flanagan seconded the motion which carried by a vote of 11-0. Commissioner Sargeant was absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE FOLLOWING WAIVERS AND MODIFICATIONS:

- REAFFIRMATION OF A WAIVER OF THE SERVICE DRIVE REQUIREMENT ALONG ROUTE 50 (ARLINGTON BOULEVARD);
- REAFFIRMATION OF A MODIFICATION OF THE LOADING SPACE REQUIREMENTS FOR OFFICE USES TO PERMIT A MAXIMUM OF THREE LOADING SPACES PER BUILDING SHOWN ON THE SE PLAT;
- RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES TO PERMIT A DEVIATION FROM THE TREE PRESERVATION TARGET IN FAVOR OF THE PROPOSED LANDSCAPING SHOWN ON THE SE PLAT AND AS CONDITIONED;
- MODIFICATION OF THE TRAIL REQUIREMENTS ALONG ROUTE 50 (ARLINGTON BOULEVARD) IN FAVOR OF THE EXISTING SIDEWALK;
- WAIVER OF THE USE LIMITATIONS ON CORNER LOTS IN SECTION 2-505 OF THE ZONING ORDINANCE TO PERMIT LANDSCAPING AND SIGN WALLS WITHIN THE STREET LINES CONSISTENT WITH THE C-3 DISTRICT, AS SHOWN ON THE SE PLAT;

- MODIFICATION OF SECTION 10-104.3 OF THE ZONING ORDINANCE TO ALLOW AN EIGHT-FOOT TALL RETAINING WALL IN A PORTION OF THE ROUTE 50 (ARLINGTON BOULEVARD) FRONT YARD, TO ENCLOSE THE LOADING SERVICE AREA AS SHOWN ON THE SE PLAT; AND
- MODIFICATION OF THE MERRIFIELD STREETSCAPE GUIDELINES IN THE COMPREHENSIVE PLAN TO ALLOW THE STREETSCAPE AND LANDSCAPING AS SHOWN ON THE SE PLAT AND AS CONDITIONED.

Commissioners Flanagan and Hall seconded the motion which carried by a vote of 11-0. Commissioner Sargeant was absent from the meeting.

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PCA 88-S-026-03 – SUNOCO, INC. (R&M) – Appl. to amend the proffers for a portion of RZ 88-S-026 previously approved for commercial development to permit site modifications and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 0.35 overall, for the shopping center. Located at 4475 Daly Drive, Chantilly, on approx. 4.07 ac. of land zoned C-6 and WS. Comp. Plan Rec: Retail and Other. Tax Map 44-1 ((9)) E2 pt. and F2 pt. (Concurrent with SEA 88-S-077-06.) SULLY DISTRICT.

SEA 88-S-077-06 – SUNOCO, INC. (R&M) – Appl. under Sect. 4-604 of the Zoning Ordinance to amend a portion of SE 88-S-077 previously approved for a service station, quick service food store, carwash, drive-in financial institutions, fast food restaurants with drivethrough windows, increase in building height, hotels, vehicle rental establishments, a waiver of sign regulations to permit redevelopment of the existing service station, quick service food store, and car wash, and associated modifications to site design and development conditions. Located at 4475 Daly Drive, Chantilly, on approx. 1.45 ac. of land zoned C-6 and WS. Tax Map 44-1 ((9)) E2 pt. and F2 pt. (Concurrent with PCA 88-S-026-03.) SULLY DISTRICT. JOINT PUBLIC HEARING.

Sara Mariska, Associate, Applicants Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit dated September 10, 2013. Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had an ongoing case where attorneys from Mr. Sampson's firm were representing an adverse party, but that matter and those parties were unrelated to this case and there was no financial relationship; therefore, it would not affect his ability to participate in this public hearing.

Brent Krasner, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of applications, PCA 88-S-026-03 and SEA 88-S-077-06.

Commissioner Litzenberger stated that an issue with these applications had arisen with the Sully District Land Use Committee and the West Fairfax County Citizen's Association (WFCCA) regarding a prohibition on the sale of alcohol at service stations in the Zoning Ordinance. He then asked staff to explain this issue and why this ordinance had been adopted. Mr. Krasner pointed out that the Zoning Ordinance had been modified in the late 1990s to differentiate between a service station/mini-mart and a quick service food store, noting that a service station/mini-mart was defined as being less than 2,500 square feet and was prohibited from certain uses, including the sale of alcohol. He also indicated that a quick service food store was defined as being between 2,500 square feet and 5,000 square feet. He then stated that the proposal would modify the existing service station/mini-mart into an approximately 3,000 square-foot facility, thereby making it a quick service food store and permitting the uses prohibited in a service station/mini-mart, such as the sale of alcohol.

Ms. Mariska said if the proposal would permit the applicant to pursue site modifications to an existing service station. She noted that four new fuel pumps would be installed under the existing canopy. She also indicated that the existing entrances would be retained. She then explained that the service station/mini-mart and car wash currently on the site would be relocated to the eastern portion of the property where additional land would be leased. Ms. Mariska stated that the applicant had met with the Sully District Council and the WFCCA and while both supported the proposed modifications, they had expressed concern about the sale of alcohol. She said that the site was appropriate for alcohol sales because it was consistent with the existing commercial uses in the surrounding area, pointing out the nearby restaurant, retail, and hotel uses. In addition, she noted that the site was not in close proximity to schools or residential areas. Ms. Mariska explained that by permitting alcohol sales, the proposed quick service food store would provide greater convenience to customers and reduce the number of trips to other retail areas. She pointed out that there had been no issues with alcohol sales with other developments in the area, adding that the applicant would include sufficient security provisions such as security cameras and a mystery shopper program with the proposal to ensure public safety and compliance with the appropriate Alcoholic Beverage Control regulations. Ms. Mariska added that by permitting the sale of alcohol, the applicant would be more competitive with the surrounding retail uses.

Replying to questions from Commissioner Hall, Ms. Mariska confirmed that the surrounding restaurant and retail uses were permitted to sell alcohol. A discussion ensued between Commissioner Hall and Ms. Mariska regarding the packaging of the alcohol at these facilities. When Commissioner Hart asked how the alcohol sold at the proposed quick service food store would be packaged, Ms. Mariska indicated that the applicant had discussed limitations on the packaging of alcohol with Commissioner Litzenberger. Commissioner Hart then expressed concern about how the packaging of the alcohol at the site in conjunction with the existing uses in the surrounding area would affect customer behavior.

Commissioner Litzenberger said that the WFCCA supported the ordinance to prohibit alcohol sales at service station/mini-marts in Centreville because some were located in close proximity to an alternative high school and residential areas. He also indicated that the ordinance was also intended to reduce traffic congestion, but noted that there was already significant congestion around the subject property. Commissioner Litzenberger then indicated that he did not support the sale of single cans or six-packs of alcohol, but he did not object to the sale of cases of

alcohol, provided that they were not refrigerated. He also requested the installation of a sign stating that no alcoholic beverages shall be consumed on the property. Ms. Mariska agreed to these provisions.

Chairman Murphy called for speakers but received no response; therefore, he noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Litzenberger for action on these cases. (A verbatim excerpt is in the date file.)

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Commissioner Litzenberger MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PCA 88-S-026-03, SUBJECT TO THE PROFFERS DATED SEPTEMBER 30, 2013.

Commissioner Flanagan seconded the motion which carried by a vote of 11-0. Commissioner Sargeant was absent from the meeting.

Commissioner Litzenberger MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 88-S-077-06, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 12, 2013, WITH THE FOLLOWING MODIFICATIONS/ADDITIONS:

- SALES OF SINGLE BOTTLES OR CANS OF BEER AND SIX-PACKS OF BEER SHALL BE PROHIBITED;
- CASES OF BEER AND BOTTLES OF WINE SHALL NOT BE REFRIGERATED;
- A SIGN STATING THAT ALCOHOLIC BEVERAGES SHALL NOT BE CONSUMED ON THE PROPERTY SHALL BE INSTALLED BY THE APPLICANT.

Commissioner Flanagan seconded the motion which carried by a vote of 11-0. Commissioner Sargeant was absent from the meeting.

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RZ 2009-PR-022 – JAMES HOLLINGSWORTH – Appl. to rezone from R-1 to R-4 to permit 3 single-family detached dwellings at a density of 2.07 dwelling units per acre (du/ac). Located on the W. side of Cedar La. approx. 150 ft. N. of its intersection with Willowmere Dr. on approx. 1.45 ac. of land. Comp. Plan Rec: 3-4 du/ac. Tax Map 49-1 ((4)) 16A.
PROVIDENCE DISTRICT. PUBLIC HEARING

James Hollingsworth, Applicant/Title Owner, reaffirmed the affidavit dated August 31, 2011. There were no disclosures by Commission members.

St. Clair Williams, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application, RZ 2009-PR-022.

Commissioner Hart indicated that the Virginia Department of Transportation (VDOT) did not support an 8-foot wide trail, but did support a 10-foot wide trail. He then asked if there was a physical impediment, such as a utility pole, on the subject property hindering a 10-foot trail and if such a trail was possible. Mr. Williams pointed out another trail in a subdivision north of the site that terminated due to the presence of a utility pole and because of this pole; an 8-foot trail was permitted. He then indicated that there was a similar utility pole on the subject property; therefore, a 10-foot trail would not fit without impacting this pole. Commissioner Hart said that he supported installing a 10-foot trail because it would then be maintained by VDOT instead of the three homeowners.

In reply to questions from Commissioner Lawrence, Mr. Williams confirmed that seven dwelling units shared the cost of maintaining the 8-foot trail in the subdivision north of the site and three dwelling units would share the cost of maintaining the trail on the subject property.

Commissioner Lawrence announced his intent to defer the decision only for this application after the public hearing, noting that this was one of the various issues that he intended to discuss.

Mr. Hollingsworth pointed out the challenges he had encountered with this proposal, such as the sight distances along Cedar Lane, stormwater drainage issues, and tree preservation concerns. He then stated that he had coordinated with staff to address these issues and each issue was addressed by the applicant. He noted that a concern regarding the presence of a swale along Cedar Lane had arisen recently and stated that he had hired an engineering firm to study this issue, which concluded that the existing swale and the concrete ditch located southwest of the subject property would accommodate sufficient stormwater outfall for a two-year and ten-year event. In addition, Mr. Hollingsworth pointed out that the proposal would increase the amount of stormwater detained on the subject property through the use of three rain gardens, which would improve the stormwater outfall for the neighboring properties and residents downstream. He also indicated that the proffers had been modified to address concerns such as tree preservation during the construction of the proposed off-site drainage system. (A copy of the revised proffers dated September 11, 2013, is included in Attachment 1 of the staff report addendum dated September 19, 2013.)

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

George Prior, 8763 Cedar Meadow Court, Vienna, spoke in opposition to the proposal because of its potential impact on tree preservation and the privacy for his property. He noted that he was a former President of the Cedar Woods Homeowners Association and that the current President, Tami Niblett, could not attend the public hearing; therefore, he submitted a letter from Ms. Niblett concurring with his opposition to the record. Mr. Prior pointed out that the close proximity of the proposed dwelling units to his property would negatively affect the privacy of

his home. In addition, he expressed concern that construction activity would damage an oak tree on his property that he had been maintaining. He also said that most of the existing trees on the subject property would be removed, noting that there was limited mature tree cover in the region. He then pointed out that the proposal would reduce the amount of sunlight on his property. Mr. Prior indicated that he had met with the applicant and suggested that the density of the development be reduced to two homes to alleviate the impact. He also expressed concern about stormwater management, pointing out that the proposed rain gardens required maintenance by the homeowners and if that maintenance was not provided, then their efficacy would be limited. In addition, he noted that there was an ongoing issue with insects in the area due to the existing stormwater situation on the site. Mr. Prior said that he supported the applicant's efforts to develop the subject property, noting that it had become blighted; however, he did not support constructing units on the property that were not consistent with the surrounding community. (A copy of Mr. Prior and Ms. Niblett's statement is in the date file.)

A discussion ensued between Commissioner Flanagan and Mr. Williams regarding the location of Mr. Prior's property and the drip-line of the mature oak tree on his property wherein Mr. Williams confirmed that the drip-line for this tree covered a portion of the subject property.

When Commissioner Flanagan asked whether construction activity on the subject property would damage the root system of the mature oak tree on Mr. Prior's property, Mr. Williams pointed out that the proposed dwelling units would meet the setback requirements for an R-4 District. In addition, he indicated that the applicant had coordinated the Urban Forest Management Division (UFMD) to ensure that the location of the dwelling unit did not significantly impact off-site trees and the proposal was consistent with UFMD's recommendations.

Commissioner Flanagan then asked if there was a proffer or condition that would prohibit construction within the drip-line of Mr. Prior's oak tree, William O'Donnell, ZED, DPZ, explained that the applicant was required to prove at site plan approval that this tree would not be damaged and the limits of clearing and grading would be adjusted accordingly.

A discussion ensued between Commissioner Hall and Mr. Prior regarding the possibility that the tree on Mr. Prior's property would be damaged despite the applicant's efforts, the possible provisions the applicant could include to compensate him if the tree was damaged, the difficulty of proving the source of the damage for a tree, and the possible ways in which his tree could be damaged.

Referring to the memorandum regarding stormwater management conditions on the site from the Department of Public Works and Environmental Services (DPWES) in Appendix 6 of the original staff report, Commissioner de la Fe expressed concern about the proposed development having to comply with revised stormwater management requirements for the State of Virginia, the Zoning Ordinance, and the Public Facilities Manual (PFM). He then asked if there had been any discussion on this issue and its potential impact on the proposal. Beth Forbes, Stormwater Engineer, Environmental and Site Review Division, DPWES, indicated that the proposed development would be consistent with the revised stormwater regulations prescribed by the State of Virginia and the proposed revisions to the PFM that were currently under consideration by the County.

In response to questions from Commissioner Hart, Mr. Williams confirmed that the tree preservation language in Proffer Number 12, Tree Preservation/Landscape Design, pertained only to the on-site trees and did not apply to the off-site tree. Mr. O'Donnell added that the applicant would be responsible for any damage incurred upon the off-site tree. He then explained that if the adjacent property owner did not grant permission to remove the tree, then the applicant was required to make a sufficient effort to not adversely impact that tree. In addition, he said that the applicant would be required to replace the tree with one of equal quality if it was damaged to an extent that it had to be removed. Mr. O'Donnell then explained that if construction activity or grading on the site damaged the root system for the off-site tree, then the applicant would be required to modify the grading or provide compensation to the adjacent property owner.

A discussion ensued between Commissioner Flanagan and Mr. O'Donnell regarding the inclusion of additional language in the proffers that would prohibit construction activity within the drip-line of the off-site tree.

Chairman Murphy called for speakers from the audience.

Ray Rogers, 102 Yeonas Drive Southwest, Vienna, voiced support for the subject application because the applicant would reserve approximately a third of the site for wildlife conservation. He also expressed support for the rain gardens because they would contribute to cleaner water.

Ragae Said, 6906 Sprouse Court, Springfield, voiced support for the subject application because it would develop a blighted property and improve the character of the surrounding community.

Scott Cubbler, 2811 Hunter Road, Fairfax, spoke in support of the proposal because the proposed dwelling units would be consistent with the surrounding community.

Answering questions from Commissioner Lawrence, Ms. Forbes indicated that the stormwater provisions to mitigate the amount of runoff from the site would be reviewed at the time of site plan review to ensure that the requirements for rezoning and subdivision were met. She also stated that the proposal would not affect the stormwater outfall points on the northern portion of the subject property or adversely affect the neighboring properties, adding that this would also be reviewed at the time of site plan review. In addition, Mr. Williams stated that Proffer Number 5, Building Restriction Line, established a 100-foot building restriction line for the northern portion of the property, which would ensure that the land beyond this line would not be modified. Commissioner Lawrence recommended that additional language be added to the proffers articulating to the owner of the dwelling units that this area was not to be disturbed.

Responding to additional questions from Commissioner Lawrence, Ms. Forbes confirmed that the proposed trench and 15-inch underground pipe to be installed along Cedar Lane would continue to Emil Way where it would connect with an open channel. Commissioner Lawrence then recommended that additional language be added to the proffers during the deferral period which specified that the neighboring property owners would accept the design of the underground pipe and would grant the necessary easement to construct it, subject to the repair of their respective properties after construction of the pipe was completed.

When Commissioner Lawrence asked how the efficacy of the rain garden would be affected as it aged, Ms. Forbes explained that these rain gardens were designed to allow stormwater to infiltrate into the stone underneath the surrounding trees and the infiltration rate could decline as the stone could become clogged. She added that these rain gardens were also designed to continue function at an infiltration rate that was half of its optimum rate, which would ensure their efficacy over time. Commissioner Lawrence stated that the applicant should make it clear to the owners of the dwelling units that they would be required to maintain these rain gardens.

Replying to additional questions from Commissioner Lawrence, Ms. Forbes confirmed that there would not be any issues on the northern portion of the subject property because this area would not be modified under this proposal. A discussion between Commissioner Lawrence and Ms. Forbes ensued regarding the cost of maintaining the rain gardens and how homeowners would carry out the maintenance of these rain gardens wherein Commissioner Lawrence recommended that this information be provided to every owner of the dwelling units.

Commissioner Lawrence pointed out that the original staff report did not get to public hearing because of the concerns regarding stormwater management on the site. Referring to page 5 of the original staff report, he read the following quote: "Fairfax County expects new residential development to enhance the community by fitting into the fabric of the neighborhood, respecting the environment, addressing transportation impacts, addressing impacts on public facilities, respecting the County's historic heritage, contributing to the provision of affordable housing, and being responsive to the unique site specific considerations of the property." Commissioner Lawrence then pointed out that there was not sufficient space along the frontage of the subject property for three curb cuts, thereby requiring a shared driveway for the proposed dwelling units that had sufficient line of sight. He noted the importance of the sight distances for these driveways due to the traffic patterns on Cedar Lane and noted that Cedar Lane would have to be modified to accommodate these driveways. When he asked how close these modifications would come to Emil Way, Mr. Williams pointed out the location of the proposed road improvements along Cedar Lane and noted that these improvements would not be close to Emil Way.

Commissioner Lawrence indicated that the impact of the proposal would not be restricted to the area around the subject property. He pointed out that the traffic patterns on Cedar Lane and Emil Way led to frequent congestion and the closure of portions of Cedar Lane during the construction of the proposed road improvements would have a significant impact. He then stated that such disruptions should be accounted for in the traffic maintenance plan for the area. In addition, Commissioner Lawrence recommended that the neighboring residents be informed about the extent of the construction activity under this application.

Commissioner Lawrence noted the proposal's impact on the driveways of neighboring properties, reiterating that he recommended that these residents be informed of the planned improvements and the potential impact on traffic patterns in the area. He also recommended that residents be notified if changes were made to the construction schedule for these improvements.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Hollingsworth, who addressed Mr. Prior's concern regarding the oak tree on his property, noting that there had been a previous tree jointly owned by both properties and he had paid Mr. Prior to remove this tree. He then said that the potential impact on Mr. Prior's tree had been analyzed by

UFMD and to address his concerns, the proposed dwelling unit on the lot abutting his had been moved and the limits of clearing were modified to accommodate the drip-line for this tree. He also addressed Mr. Prior's concern about the proximity of the proposed dwelling units to his property, saying that the development was consistent with the recommendations of the Comprehensive Plan. Mr. Hollingsworth also addressed Commissioner Lawrence's concerns regarding the proposed rain gardens, pointing out that the maintenance agreement and the documents for the homeowners association to be established would specify how these rain gardens would be maintained. He added that the cost of maintaining the rain gardens would be similar to mulching a yard. He then addressed the concerns raised regarding the proposal's impact on the surrounding roads, saying that the driveways for the proposed dwelling units had been moved and additional pavement was added to Cedar Lane to ensure sufficient line of sight. In addition, he noted that while the surrounding community would be impacted by the construction of the proposed transportation improvements, these improvements would enhance the safety for vehicles traveling along Cedar Lane. Mr. Hollingsworth also said that the subject application would not increase the amount of impervious surface area and the proposed transportation improvements would make it easier for vehicles to make left and right turns, adding that these improvements would be consistent with VDOT standards. He then pointed out that neighboring residents would be informed of additional routes that could be utilized while the transportation improvements on Cedar Lane were constructed. Mr. Hollingsworth addressed questions regarding the building restriction line, citing language in Proffer Number 5 that indicated the building restriction line would be established in a covenant approved by the County Attorney and recorded in the land records with the subdivision plat. In addition, he stated that purchasers of the proposed dwelling units would be notified of the restrictions associated with the building restriction line. He then said that this language would ensure that there would be no construction beyond the building restriction line.

A discussion ensued between Commissioner Flanagan and Mr. O'Donnell regarding the drip-line of the tree on Mr. Prior's property and another tree on the subject property wherein Mr. O'Donnell confirmed that the root system for the tree on the subject property would extend into Mr. Prior's property. Commissioner Flanagan then pointed out that staff recommended a 10-foot disturbance line along the lot line of Mr. Prior's property and noted that this was not articulated in Proffer Number 12, which he stated should be modified accordingly. He also expressed support for the provision in Proffer Number 12 to construct a tree protection fence around the drip-line of the tree on Mr. Prior's property.

When Commissioner Flanagan asked if there was any construction proposed within the tree protection fence, Mr. O'Donnell indicated that there would be no such construction within this fence or around the proposed drip-line of Mr. Prior's tree because this area was beyond the building restriction line.

A discussion ensued between Commissioner Hurley and Mr. Hollingsworth regarding the health of the tree on Mr. Prior's property wherein Mr. Hollingsworth reiterated that the proposed building restriction line and limits of clearing were intended to protect the trees on the subject property and Mr. Prior's property.

When Commissioner Hurley asked why Proffer Number 17, Telecommuting, required that the proposed dwelling units be pre-wired with broadband, high capacity data/network connections in

multiple rooms, Mr. Hollingsworth explained that this language was consistent with that of similar rezoning applications and these connections would make it easier to establish broadband internet access.

Chairman Murphy called for concluding staff remarks from Mr. Williams, who indicated that staff would coordinate with the applicant to address the concerns raised by Commissioner Lawrence regarding notifications for adjacent property owners throughout the implementation of the proposal.

Commissioner Hart expressed concern about the possibility that the necessary easements could not be acquired. Referring to Proffer Number 19, Off-Site Drainage Improvements, Commissioner Hart also pointed out that four neighboring property owners had signed notarized letters authorizing the applicant to apply for the easements necessary to construct the off-site drainage improvements, but noted that the acquisition of these easements was not guaranteed. He then requested that the applicant articulate the recourse if the easements could not be acquired during the deferral period. In addition, he also concurred with Commissioner Lawrence's recommendation that the applicant inform neighboring residents of the duration of the construction activity for the proposal.

Commissioner Hart pointed out that some of the applicant's descriptions of the drip-line for the tree on Mr. Prior's property was not consistent with the applicant's statement that there would be no construction or grading within this drip-line and requested that this also be clarified during the deferral period.

Commissioner Donahue recalled Mr. Prior to respond to the applicant's testimony regarding his remarks. Mr. Prior then addressed Mr. Hollingsworth's remarks, reiterating that the tree on his property located near the site was in good condition. He added that there was nothing built within the drip-line of the tree on his property or the subject property. Mr. Prior also addressed Mr. Hollingsworth's statement about a prior tree that had been removed, noting that this tree had not been jointly owned and was located primarily on his property. He explained that he granted permission to remove this tree because it was structurally weak and required too much maintenance. Mr. Prior then echoed Commissioner Hart's remarks regarding the inconsistency in the applicant's descriptions regarding the limits of clearing relative to the drip-line of his tree. In addition, he pointed out that there were two other trees near the one on his property and the applicant had not articulated whether these would be removed. Mr. Prior also stated that the applicant had not sufficiently addressed the impact that the proposed dwelling units would have on the surrounding properties.

A discussion ensued between Commissioner Hall and Mr. Prior regarding the ownership of the tree that had been removed and the reasons for allowing this tree to be removed wherein Commissioner Hall noted the applicant's efforts to address his concerns.

Mr. Hollingsworth responded to Mr. Prior's remarks, stating that he would submit a report from 2006 that described the condition of the tree that had been removed. He also clarified that he sought to remove this tree because it was a safety concern, adding that he might have incurred part of the financial responsibility for any damage it might have caused to Mr. Prior's property. (A copy of the report is in the date file.)

There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR RZ 2009-PR-022, TO A DATE CERTAIN OF OCTOBER 24, 2013, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioner Flanagan seconded the motion which carried by a vote of 11-0. Commissioner Sargeant was absent from the meeting.

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The Commission went into recess at 10:24 p.m. and reconvened in the Board Auditorium at 10:36 p.m.

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PCA 86-D-108 – WILLIAM WEISS – Appl. to amend the proffers for RZ 86-D-108 previously approved for residential development to permit modification of approved proffers at a density of 1.54 dwelling units per acre (du/ac) with associated modifications to proffers and site design. Located at 9416 Atwood Rd., Vienna, on approx. 36,000 sq. ft. of land zoned R-2. Comp. Plan Rec: 1-2 du/ac. Tax Map 19-3 ((17)) 23. DRANESVILLE DISTRICT.
PUBLIC HEARING

Gregory Budnik, Civil Engineer, Applicants Agent, GJB Engineering, Inc., reaffirmed the affidavit dated August 30, 2013. There were no disclosures by Commission members.

Commissioner Donahue announced his intent to defer the decision only on this application after the close of the public hearing.

Megan Duca, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application, PCA 86-D-108.

Mr. Budnik said that the purpose of the subject application was to amend a proffer from a previously-approved Rezoning application that prohibited the removal of any trees on the subject property. He explained that this modification would permit the removal of the existing dwelling unit on the property, which had become blighted, thereby allowing for the construction of a single family detached dwelling unit. He added that this dwelling unit would include an

accessory dwelling unit that was proposed under a concurrent Special Permit (SP 2013-DR-027). Mr. Budnik stated that when the subject property had been purchased at auction from the descendants of the original owners, the applicant was not informed of the existing prohibition on tree removal and the need for a Proffer Condition Amendment (PCA) was revealed during consultation with the Virginia Department of Transportation (VDOT) regarding a modification to the entrance for the site. He also pointed out that a PCA was also required to demolish the existing structure on the property because of its proximity to the trees. He then indicated the existing structure on the property could not be salvaged because its foundation was damaged. Mr. Budnik said that the applicant had coordinated with staff and the Urban Forest Management Division (UFMD) to ensure that the proposal was consistent with the County's tree preservation and stormwater management standard. He then indicated that the proposed dwelling unit would provide optimum tree preservation for the site, noting that there was currently a lack of mature trees in the center and rear of the property. In addition, Mr. Budnik said that additional trees would be planted to supplement the existing tree canopy, noting that the trees along the property lines would provide screening for the neighboring properties. He described the stormwater management provisions in the proposal, saying that runoff from the site would be directed to a percolation trench that would be installed. He added that these provisions exceeded the requirements outlined in the Chesapeake Bay Preservation Ordinance and the Public Facilities Manual's (PFM) adequate outfall provisions. Mr. Budnik addressed concerns articulated by the property owners north of the site regarding the size of the dwelling unit, stating that the unit had been designed to reduce its visual impact on neighboring properties. He also noted that the distance between the proposed dwelling unit and the closest units was greater than the average distance between the units in the neighboring subdivision. In addition, he acknowledged that the square footage of the proposed dwelling unit was greater than that of the units in the neighboring community, but the architecture of the unit would ensure that it remained consistent with the character of the surrounding units. He added that the percentage of the lot that the unit covered was consistent with the average coverage of the units in the neighboring subdivision. Mr. Budnik said that the subject application was supported by two of the four adjacent property owners, the McLean Citizens Association's Planning and Zoning Committee, and various members of the surrounding community. He explained that the accessory structure would provide a dwelling and elder care for the applicant's parents, adding that this was consistent with the County's ongoing efforts to provide suitable care for its aging population. He asked the property owner's wife and her father, Xin Tao, who would occupy the accessory structure, to stand and be recognized. He then read a statement on Mr. Tao's behalf, stating that the structure would allow him to live closer to his family. Mr. Budnik added that the development conditions for SP 2013-DR-027 that were associated with the accessory structure were in Appendix 2 of the staff report. He also stated that the proposal had numerous letters of support, including a letter from the American Association of Retired Persons, which had been submitted into the record. Mr. Budnik then yielded to the chief arborist for the proposal for additional information regarding tree preservation. (Copies of the letters of support are in the date file.)

Donald Zimar, Applicants Arborist, Zimar & Associates, Inc., reiterated that the provisions of the subject application exceeded the requirements outlined in the PFM, adding that the forest buffers along the boundaries of the site would be improved. In addition, he said that the proposal would improve the overall tree canopy for the subject property. He also commended the applicant and staff for their work on this application. Mr. Zimar then yielded to the title owner of the site for concluding remarks.

William Weiss, Applicant/Title Owner, stated that he purchased the property because the location and size of the lot accommodated the accessory structure. He also reiterated that the accessory structure would be occupied by his wife's parents, thereby allowing them to be closer to their family. He noted that other options were considered in addition to the accessory structure, such as assisted living facilities, but this would not provide the desired quality-of-life. Mr. Weiss indicated that the accessory structure would incorporate universal design concepts. In addition, he said that an accessory structure would be more cost-effective in providing elder care for his family.

Referring to sheet 9 of the GDP/Special Permit Plat in the staff report, Commissioner Flanagan asked for clarification on the depictions of the two maps. Mr. Zimar explained that the first map depicted the different types of vegetation that were currently on the subject property, noting the vegetation labeled as forest, as defined by Chapter 12 of the PFM, and the vegetation labeled as landscape area. He added that the trees in the forest area would be preserved under the subject application. Mr. Zimar then stated that the second map depicted the tree canopy that the applicant intended to preserve. A discussion ensued between Commissioner Flanagan and Mr. Zimar regarding the trees that would be removed or retained on the site.

When Commissioner Flanagan asked about the trees located in the right-of-way along Atwood Road, Mr. Zimar said that these trees would also be removed, but noted that the applicant could not count these trees as part of the tree canopy for the site. He also noted that VDOT owned and controlled this right-of-way. In addition, Mr. Budnik pointed out that due to the terrain of Atwood Road, the existing entrance to the site could not be moved due to concerns about sight distances. He added that the applicant had assessed each tree near the entrance and would remove the fewest possible trees to ensure the necessary sight distances. A discussion ensued between Commissioner Flanagan and Mr. Budnik regarding the cost of removing the trees in the right-of-way wherein Mr. Budnik stated that the applicant would incur this cost and pointed out the area within the right-of-way that would be cleared, adding that ensuring the sight distances was required to obtain an entrance permit. Mr. Budnik also indicated that VDOT supported the applicant's tree removal provisions for the right-of-way.

Chairman Murphy called the first listed speaker.

William Gray, 9463 Deramus Farm Court, Vienna, spoke in opposition to the proposal. He said that he lived on the property located north of the subject property. He indicated that he had met with the applicant and the Siara Estates Homeowners Association. He then stated that while he did not object to the proposed dwelling unit, he was concerned about the loss of trees on the site. Referring to the first sheet of a presentation that he had distributed to the Commission prior to the public hearing, Mr. Gray described the existing dwelling unit, driveway, and impervious surface on the subject property. Referring to the second sheet of his presentation, he described the proposed dwelling unit, noting that size of the unit and the accessory structure. He also described the design of the proposed driveway, noting the increase in the amount of impervious surface on the site. Referring to the third sheet of his presentation, Mr. Gray pointed out the canopy of the trees that would be removed under the subject application, noting the size of these trees. He then identified the trees that the applicant would preserve, but pointed out that the

installation of a sewer line on the site could result in additional tree loss. (A copy of Mr. Gray's presentation is in the date file.)

When Commissioner Donahue asked whether the tree canopy would be improved by this proposal, Mr. Zimar explained that the existing tree canopy on the site consisted of tree species that were of poor quality. He said that the applicant would plant trees of better quality to supplement the canopy, such as evergreens. He added that these trees would be more sustainable and would improve the screening on the site. Craig Herwig, Urban Forester III, UFMD, stated that he concurred with Mr. Zimar, saying that the UFMD did not give tree canopy credit for some of the existing species of trees on the site and the PFM identified these species of tree as low quality. He added that there were trees of good quality on the subject property that might be damaged during the demolition of the existing dwelling unit.

Commissioner Donahue asked whether the installation of a sewer pipe on the subject property would adversely affect an existing evergreen tree on the subject property. Mr. Zimar indicated that efforts would be made to preserve this tree, such as root pruning, mulching, and watering. In addition, Mr. Herwig pointed out that the critical root zone of this tree would not be significantly impacted.

A discussion ensued between Commissioner Donahue and Mr. Gray regarding the amount of trees that would be removed under the proposal wherein Mr. Gray indicated that a total of 27 trees would be removed, adding that some of the grading would occur under the canopy of trees designated for preservation.

In response to questions from Chairman Murphy, Mr. Gray clarified his concerns about the proposal, stating that he had purchased his house with the understanding that the trees on the subject property would not be removed and the size of the proposed dwelling unit would result in the loss of too many trees. A discussion ensued between Chairman Murphy and Mr. Gray, with input from Commissioner Hall, regarding the location of his house.

When Commissioner Donahue asked Mr. Gray if he was aware of the existing proffer for the property that prohibited the removal of any trees, he said that he was aware of this proffer.

Answering questions from Commissioner Hall, Mr. Gray said that his house was approximately 4,200 square feet in size and Mr. Weiss stated that the proposed dwelling unit would be approximately 7,500 square feet. Mr. Gray then reiterated that he did not oppose the size of the house and his concern was primarily the loss of trees on the site. A discussion ensued between Commissioner Hall and Mr. Gray regarding the amount of tree removal that had occurred on the neighboring properties wherein Mr. Gray indicated that that every tree had been removed when the existing subdivision was constructed and the current proffer prohibiting tree removal on the subject property was intended to preserve the trees around this subdivision.

Replying to questions from Commissioner Flanagan, Mr. Gray confirmed that the existing proffer prohibiting tree removal on the subject property was in place when he purchased his property and he was aware that this proffer required that the trees on the site be preserved. A discussion ensued between Commissioner Flanagan and Mr. Gray regarding the influence of this proffer in Mr. Gray's decision to purchase his property and his understanding that this proffer could be amended.

Commissioner de la Fe stated that the purpose of the subject application was to amend the existing proffer which prohibited tree removal on the site and this proffer did not specify that the trees on the site would remain indefinitely.

In reply to questions from Commissioner Hart, Ms. Duca said that the proffer prohibiting tree removal was specific to the subject property and there was no such proffer for the neighboring lots. A discussion ensued between Commissioner Hart, Ms. Duca, and Mr. Herwick regarding the reason for the proffer.

John Nelsen, 9461 Deramus Farm Court, Vienna, representing Siara Estates Association Inc., voiced opposition to the proposal. He explained that the existing proffer prohibiting tree removal on the site was implemented by the previous owner. He then stated that this proffer had been part of the creation of the Siara Estates subdivision and since the construction of this subdivision had resulted in the removal of numerous trees, the previous owner sought to ensure the preservation of the trees on the subject property. Mr. Nelsen also indicated that the view offered by the existing trees factored into his decision to purchase his property. He said that the applicant had met with the surrounding community and while they supported developing the site, they did not support the amount of tree removal articulated in this proposal. He then described the size of the trees that would be removed, noting that the trees that would replace them would not be as large. In addition, he said that the subject property would not be visually appealing at the initial planting of the replacement trees and this would continue until the trees sufficiently grew. Mr. Nelsen stated that a petition had been submitted to the Commission that had been signed by members of the Siara Estates community and other nearby residents opposing the proposal. He also submitted two letters from neighboring homeowners who opposed the proposal. (A copy of the petition and the letters is in the date file.)

A discussion ensued between Commissioner Hurley and Mr. Nelsen regarding the possibility of modifying the easement between his property and the subject property to preserve a tree that was located near this easement.

Responding to questions from Commissioner Hurley, Mr. Nelsen indicated that he did not object to the size of the proposed dwelling unit, but he did object to the amount of trees that would be removed to accommodate this unit. He recommended modifying the location of the house on the site to reduce the amount of trees that would be removed, noting that he did not oppose to removing some trees. A discussion ensued between Commissioner Hurley and Mr. Nelsen regarding the location of the trees that would be removed wherein he stated that the trees located near the garage of the proposed dwelling unit might also be removed.

Commissioner Donahue said that the demolition and clearing of the subject property was necessary because the existing development was blighted and pointed out that the removal of some trees was part of this process. Mr. Nelsen said that he understood that some trees would be removed, but he was concerned that too many trees would be removed under the subject application.

Lin Cao, 1440 Carrington Ridge Lane, Vienna, spoke in support of the proposal. He said he had met with the applicant and supported their efforts to care for their elder family members. He

described his experience providing care to his elder family members and stated that the provisions of the subject application would provide sufficient living space and quality care for the applicant's family.

David Hu, 327 Senate Court, Herndon, voiced support for the proposal. He pointed out that the size of the proposed dwelling unit was appropriate for the size of the lot, which he noted was larger than the lots in the surrounding community. He also said that the size of the dwelling unit was consistent with the size of the units in the surrounding community. In addition, Mr. Hu stated that the proposal would increase the land values of the surrounding community.

In response to questions from Commissioner Flanagan, Mr. Hu said that the subject property was less than one acre and only one dwelling unit could be constructed on the site. A discussion ensued between Commissioner Flanagan and Mr. Hu regarding the accessory structure wherein Mr. Hu pointed out that this structure would be connected to the unit.

Answering questions from Chairman Murphy, Mr. O'Donnell indicated that the subject property was zoned R-2 and confirmed that it was less than an acre. He also clarified that SP 2013-DR-027 would permit the accessory structure.

Replying to questions for Commissioner Hall, Ms. Duca indicated that the subject application contained no waivers and the proposed dwelling unit could be built by-right if it did not include the accessory structure.

George Smith, 1416 Montague Drive, Vienna, spoke in opposition to the proposal, aligning himself with Mr. Nelsen's remarks. He described the topography and the existing tree canopy of the subject property. He then stated that the proposal would remove too many mature trees and favored modifying the design of the dwelling unit to preserve more trees.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Budnik, who said that the applicant had attended multiple meetings with arborists and various professionals to address the community's concerns regarding tree preservation. He noted that they remained committed to providing sufficient screening along the northern boundary of the site. He also indicated that alternative provisions were discussed at these meetings, but noted that this resulted in no changes to the proposal. However, he stated that the applicant would remain receptive to such alternatives. Mr. Budnik clarified that there were four properties adjoining the site and pointed out that the applicant had coordinated with one of these owners to address concerns about stormwater runoff flowing into his property, adding that the applicant would continue working with him on this issue. He acknowledged that the Siara Estates community did not support the proposal, stating that their primary concern was tree preservation on the site. He then noted that the applicant's arborists and the arborists with the UMFD concurred with them regarding the current state of the subject property and the benefits offered by the subject application. Mr. Budnik addressed remarks raised by speakers regarding the purpose of the proffer prohibiting tree removal on the site, stating that this proffer was created when the dwelling unit on the property was still habitable. He then reiterated that the property was now blighted and the existing trees on the site were in poor condition, adding that the circumstances that necessitated the proffer no longer applied. In addition, Mr. Budnik echoed remarks made by Mr. Zimar and Mr. Herwig, saying that the proposal would improve the tree canopy on the site.

He added that the applicant would continue to work with the surrounding community to address their concerns about the visibility and appearance of the proposed dwelling unit.

In reply to questions from Commissioner Litzenberger, Mr. Budnik said that Mr. Weiss did not have a real estate attorney present when he purchased the subject property. He also stated that while the site had been researched prior to purchase, he did not know about the proffer prohibiting tree removal at the time of purchase.

Commissioner Hedetniemi stated that trees contributed to the fabric of a community and the community's concerns regarding the loss of trees on the subject property should not be dismissed. She then encouraged the applicant to be more receptive about the community's concerns regarding this issue.

Referring to Development Condition Number 10 for SP 2013-DR-027 in Appendix 2 of the staff report, Commissioner Flanagan asked whether the owner of the property was aware that the accessory structure would be converted to another use permitted by the Zoning Ordinance should their proposed use for this structure cease. Mr. Budnik indicated that Mr. Weiss was aware of this possibility.

Chairman Murphy noted that while he understood the surrounding community's concern regarding tree preservation on the site, he said that he supported the redevelopment of blighted properties. He added that redeveloping blighted properties often involved removing a certain amount of trees, but acknowledged that the circumstances for the subject property were different because of the existing proffer prohibiting tree removal. He then encouraged the applicant to continue coordinating with the surrounding community to address this issue. Mr. Budnik reiterated that the applicant remained committed to working with the community.

Commissioner Hart pointed out that the public hearing for SP 2013-DR-027 with the Board of Zoning Appeals (BZA) was currently scheduled for Wednesday, October 9, 2013, but noted that there could be modifications to the proposal during the deferral period. He then asked the applicant to consider deferring this public hearing. Commissioner de la Fe stated that the Commission could recommend that the BZA defer its public hearing for this case until after the Planning Commission had rendered a decision. Mr. Budnik indicated that the applicant did not object to deferring the public hearing for SP 2013-DR-027.

Commissioner Donahue stated that the existing proffer prohibiting tree removal on the subject property had to be modified to redevelop the subject property. He then suggested that an analysis be conducted of the trees on the site that could be preserved by modifying the footprint of the dwelling unit. He also noted that this issue might not be finalized at the time of the BZA public hearing for SP 2013-DR-027.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Donahue for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Donahue MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR PCA 86-D-108, TO A DATE CERTAIN OF OCTOBER 24, 2013, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT, AND RECOMMEND THAT THE BOARD OF ZONING APPEALS DEFER ITS PUBLIC HEARING FOR THE ASSOCIATED SPECIAL PERMIT FOR THIS CASE, SP 2013-DR-027, TO A DATE AFTER THE PLANNING COMMISSION HAS MADE A DECISION ON THIS APPLICATION.

Commissioner Hall seconded the motion which carried by a vote of 10-0. Commissioner Lawrence was not present for the vote. Commissioner Sargeant was absent from the meeting.

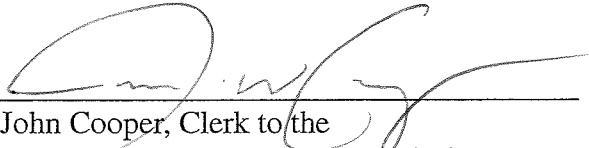
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The meeting was adjourned at 11:59 p.m.
Peter F. Murphy, Chairman
Janet R. Hall, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jacob Caporaletti

Approved on: July 17, 2014



John Cooper, Clerk to the
Fairfax County Planning Commission